

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

DIRECT REPORT CORPORATION
d/b/a/ SHAREHOLDER.COM,

Plaintiff,

v.

CCBN.COM, INC., THE THOMSON
CORPORATION, ROBERT I. ADLER, JOHN
DOES 1 THROUGH 5, and JANE DOES 1
THROUGH 5,

Defendants.

Civil Action No. 04-10535-PBS

**DEFENDANTS CCBN.COM AND THE THOMSON CORPORATION'S ASSENTED-TO
MOTION FOR LEAVE TO FILE A SUPPLEMENTAL OPPOSITION TO
PLAINTIFF SHAREHOLDER.COM'S MOTION TO COMPEL
DEFENDANTS CCBN.COM AND THOMSON CORPORATION TO
CONDUCT SEARCHES OF CCBN.COM'S ELECTRONIC BACKUP TAPES**

Defendants CCBN.com, Inc. ("CCBN") and the Thomson Corporation ("Thomson") (collectively, "Defendants") submit this Assented-to Motion For Leave to File a Supplemental Opposition to Plaintiff Shareholder.com's ("Shareholder's") Motion to Compel Defendants CCBN.com and Thomson Corporation to Conduct Searches of CCBN.com's Electronic Backup Tapes (the "Motion"). In support of the Motion, Defendants state as follows:

1. On June 20, 2005, Shareholder filed its Motion to Compel Defendants

CCBN.com and Thomson Corporation to Conduct Searches of CCBN.com's Electronic Backup Tapes ("Motion to Compel").

2. On July 12, 2005, Defendants filed their Opposition to this Motion to Compel on the grounds that: (a) there is no basis for the expansive and overly burdensome discovery Shareholder seeks – namely, the complete restoration and search of *all* of CCBN's archival

system backup tapes for all communications regarding 110 of CCBN's customers by *all* of CCBN's 350 employees; (b) the burden and expense of the proposed restoration and searches of CCBN's 478 archival system backup tapes (if converted to plain text the estimated output of these 478 tapes would be **30 billion pages**, or more than **one million bankers boxes**) far outweighs any conceivable – much less likely – benefit; and (c) there is a more convenient, less burdensome and less expensive source for the information Shareholder seeks. In support thereof, the Defendants submitted to the Court, among other things, an Affidavit of Thomson Financial's Director of Application Support, detailing the significant financial and logistical burdens that would be involved with the overbroad discovery request.

3. Since that time, the parties have engaged in discussions regarding the possibility of resolving Shareholder's Motion to Compel without further assistance from the Court. In order to facilitate these conversations, Defendants retained a well-known and well-respected third-party electronic discovery vendor, Electronic Evidence Discovery ("EED"), to assist in assessing the scope of and provide pricing quotations regarding the searches Shareholder demands. The information obtained from EED confirms that Defendants' previous estimates regarding the nature of the searches Plaintiff seeks were, if anything, vastly underestimated. The pricing quotations obtained from EED make clear that it would be astronomically and prohibitively expensive to conduct the searches plaintiffs request. In fact, at prevailing market rates for e-discovery projects, the cost of electronic production of the complete collection Shareholder demands **would exceed \$30 million**.

4. As a result, the Defendants seek to submit a Supplemental Opposition to Shareholder's Motion to Compel and accompanying Affidavit of James Berriman, Executive Manager of Litigation Technology. These materials will provide the Court with necessary

information and analysis regarding the actual scope and burden of the demanded searches, as well as EED's pricing proposal. The information contained in the Defendants' Supplemental Opposition and accompanying affidavit is critical to the Court's consideration of Plaintiff's Motion to Compel and was only recently generated when the parties decided to engage consultants to attempt to resolve their discovery dispute.

Accordingly, Defendants respectfully request that the Court grant this Motion.

Respectfully submitted,

CCBN.COM, INC. and THE THOMSON CORPORATION,

By its attorneys,

/s/ Jennifer L. Chunias

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Dated: September 22, 2005

LOCAL RULE 7.1A(2) CERTIFICATION

Pursuant to Local Rule 7.1(A)(2), counsel for CCBN conferred on September 22, 2005 with counsel for Plaintiff and for Mr. Adler. Counsel for Plaintiff and Mr. Adler assented to the relief requested in this Motion.

/s/ Jennifer L. Chunias

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[PROPOSED] ORDER

Having considered the Defendants CCBN.com, Inc. and The Thomson Corporation's Assented-to Motion For Leave to File a Supplemental Opposition to Plaintiff Shareholder.com's Motion to Compel Defendants CCBN.com and Thomson Corporation to Conduct Searches of CCBN.com's Electronic Backup Tapes, the Court finds the motion well-taken and it is hereby GRANTED.

United States Magistrate Judge

Dated: _____, 2005

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